MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2018/2019

UFL1612 – FAMILY LAW

(All Sections / Groups)

6 MARCH 2019
Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. This Question paper consist of 2 sections. Attempt ONE question only in Section A and all THREE questions in Section B. The distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of statutes into the exam venue. "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

SECTION A (Answer ONE question only)

QUESTION 1

It was stated by Thompson LP stated in the case of *Re Ding Do Ca* [1966] 2 MLJ 220

> *"... the whole question of personal law in this country, particularly as regards questions of marriage, divorce and succession, calls for the attention of the legislature. For persons professing Islam, the position is tolerably clear. But as regards persons of Chinese race the law the courts are administering is probably different from any law that exist or ever has existed in China..."*

In the light of the above statement, discuss the implementation, the requirements, as well as the procedures for the formation of a valid marriage under the Law Reform (Marriage and Divorce) Act 1976 in replace to the various customary law for non- muslim marriages in Malaysia.

Cite the relevant provisions and cases where appropriate.

(Total: 25 marks)

QUESTION 2

a) Rajnita, a 16 year-old Hindu girl is in love with Delwar, 35 years old. They plan to get married during the end year school holidays. Her mother, Bindhu did not agree to the marriage because Delwar is her brother and he is already married with 3 children.

In the meantime, Rajnita's father, Rahul agrees to the marriage as Delwar is doing very well in his business and career. However, he insists that the marriage shall be solemnized at a Hindu temple in their village in order to follow the tradition of their family. Otherwise, he threatens to disown Rajnita and she will not be entitled to any of his estates.

Rajnita comes to you to seek a legal opinion whether there is any way that their proposed marriage can be valid under the Law Reform (Marriage & Divorce) Act 1976 and how could she proceed with a valid marriage?

Advise her.

(13 marks)

Continued...

b) In the case of ***Winans & Anor v Attorney General (1904) AC 287 (HL),*** the court was not satisfied from the facts of the case that the petitioner had a clear intention to change his 'domicile of origin' to 'domicile of choice'.

Elaborate the above statement with regards to requirements for 'domicile of choice' with reference to relevant cases and provision under the Law Reform (Marriage and Divorce) Act 1976.

(12 marks)

(Total: 25 marks)

SECTION B (Answer all THREE questions)

QUESTION 3

Rakesh, a Hindu has a wife, Renu who is also a Hindu, whom he married according to the Hindu custom. They are of Malaysian domicile, and reside in Kuala Lumpur. Rakesh became a Muslim and invited Renu to become a Muslim, but she refused. To what extent Rakesh has the rights to apply for a dissolution of marriage under Law Reform (Marriage and Divorce) Act 1976?

Advise the parties.

(Total: 25 marks)

QUESTION 4

Jack and Jill had been married for 15 years. Jack is a partner in Messrs Jack, John and Associates, a well-known legal firm in Kuala Lumpur while Jill is an engineer. They have 2 children, Sally who is 11 years old and Harry is 6 years old. After 15 years of marriage, both realized that they were growing apart due to their work commitments. After the marriage, they jointly bought a house with equal financial contributions. However, Jill paid another RM200,000.00 for the house interior decoration. The said house is their family home. Aside from the house, Jill was given an apartment unit by her parents when Sally was born. Jill rented the said unit for RM2,000,000.00 per month. Jack is not interested in properties but invested heavily in shares. All the shares are in his name.

Continued...

They also opened a joint account for the children's education upon their marriage. Jack contributed RM50,000.00 while Jill gave RM30,000.00 to the said account. Jill continue to make monthly deposit of RM2,000.00 into the account.

Since she is not happy, she is thinking of asking for a divorce. Nevertheless, before she proceeds with her intention, she asks you for your advice on the following matters:

(a) How will their assets be divided?
(b) Can she ask for maintenance for her and the children from Jack?
(c) What will the court take into account in deciding who should have custody of the children?

Advise Jill.

(Total: 25 marks)

QUESTION 5

Discuss the following:-

(a) After knowing each other for more than 3 years, Peter and Jane were married in November 2018. They lived at Jane's house. Jane has obsessive-compulsive disorder (OCD). It is a mental disorder in which people have unwanted and repeated thoughts, feelings, ideas, sensations (obsessions), and behaviors that drive them to do something over and over (compulsions). Thus her house is neat where everything must be in kept in an orderly manner all the time. Peter is the opposite, he is messy and disorganized. Jane tried to tolerate Peter's behavior but realized that it is causing her a lot of stress and anxiety. In March 2019, she decided that she wants a divorce. Explain to Jane whether she is allowed to do so according to the law?

(12.5 marks)

(b) With references to the provisions of the Law Reform (Marriage and Divorce) Act 1976 and decided cases, discuss the difference between a voidable and void marriages.

(12.5 marks)

(Total: 25 marks)

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